

**Notice of Allowability**

Application No.

09/924,268

Examiner

Gordon J. Stock

Applicant(s)

WOLLESCHENSKY ET AL.

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 4/20/05.
2. ☒ The allowed claim(s) is/are 10,23,27,37,56,68,72 and 82.
3. ☒ The drawings filed on 07 June 2004 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☒ to Paper No./Mail Date 5 (12/5/03).
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)           |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|   | 9. <input type="checkbox"/> Other _____   |

***Drawings***

1. The drawings filed on August 7, 2001 (Figs. 2, 5-13) and the replacement drawings filed on June 7, 2004 (Figs. 1, 3, 4) are acceptable subject to correction of the informalities indicated on the "Notice of Draftsperson's Patent Drawing Review," PTO-948 attached to Paper No. 5 (mail date December 5, 2003). In order to avoid abandonment of this application, correction is required in reply to the Office action. The correction will not be held in abeyance.

***Allowable Subject Matter***

2. **Claims 10, 23, 27, 37, 56, 68, 72, and 82** are allowed.

The following is an examiner's statement of reasons for allowance:

As to **claim 10**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in an optical detection method a dispersive element is swiveled for increasing the spectral resolution and further an additional movement of the detector is carried out, in combination with the rest of the limitations of **claim 10**.

As to **claim 23**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in an optical method the particular comparison of the measured signal with a reference signal, in combination with the rest of the limitations of **claim 23**.

As to **claim 27**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in an optical detection method the signals are generated by photon counting and subsequent digital-to-analog conversion is performed, in combination with the rest of the limitations of **claim 27**.

As to **claim 37**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in an optical detection method having the scan unit comprise an x-y scanner, in combination with the rest of the limitations of **claim 37**.

As to **claim 56**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in an arrangement a dispersive element is swiveled for increasing the spectral resolution and an additional movement of the detector is carried out, in combination with the rest of the limitations of **claim 56**.

As to **claim 68**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in an arrangement the particular comparison of the measured signal with a reference signal, in combination with the rest of the limitations of **claim 68**.

As to **claim 72**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in an arrangement signals are generated by photon counting and subsequent digital to analog conversion is performed, in combination with the rest of the limitations of **claim 72**.

As to **claim 82**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in an arrangement an x-y scanner in the illumination source, in combination with the rest of the limitations of **claim 82**.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Fax/Telephone Numbers***

If the applicant wishes to send a fax dealing with either a proposed amendment or a discussion with a phone interview, then the fax should:

- 1) Contain either a statement "DRAFT" or "PROPOSED AMENDMENT" on the fax cover sheet; and
- 2) Should be unsigned by the attorney or agent.

This will ensure that it will not be entered into the case and will be forwarded to the examiner as quickly as possible.

*Papers related to the application may be submitted to Group 2800 by Fax transmission. Papers should be faxed to Group 2800 via the PTO Fax machine located in Crystal Plaza 4. The form of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CP4 Fax Machine number is: (703) 872-9306*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gordon J. Stock whose telephone number is (571) 272-2431.

The examiner can normally be reached on Monday-Friday, 10:00 a.m. - 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr., can be reached at 571-272-2800 ext 77.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private Pair system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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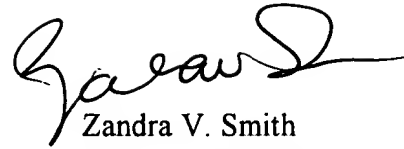
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April 27, 2005



Zandra V. Smith

Primary Examiner

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